

# Memorandum



**Date:** October 7, 2014

**To:** Honorable Chairwoman Rebeca Sosa  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez  
Mayor

Agenda Item No. 8(A)(4)

**Subject:** Change Order No. 1 to Contract with Aarya Construction and Design, Inc., for the Concourse "E" Fire Sprinkler and Fire Alarm Upgrades, MDAD Project No. F117A, in the amount of \$160,000.00

## **RECOMMENDATION**

It is recommended that the Board of County Commissioners (Board) approve Change Order No. 1 to the Concourse "E" Fire Sprinkler and Fire Alarm Upgrades Contract with Aarya Construction and Design, Inc. in the amount of \$160,000.00.

## **SCOPE**

Miami International Airport (MIA) is located primarily within Chairwoman Rebeca Sosa's District Six; however, the impact of this item is countywide as MIA is a regional asset.

## **FISCAL IMPACT/FUNDING SOURCE**

This change order increases the contract amount by \$160,000.00. The source of funding is Miami-Dade Aviation Department (MDAD) Capital Improvement Program funds.

## **TRACK RECORD/MONITOR**

Aarya Construction and Design, Inc. has performed work for MDAD at a satisfactory level. The Capital Improvements Information System (CIIS) lists 11 evaluations with an average rating of 2.9 out of 4, equating to satisfactory. MDAD Project Manager Roberto Rodriguez monitors the contract.

## **COMPLIANCE DATA**

There is no history of violations for this firm in the County's Small Business Development database.

## **BACKGROUND**

Pursuant to Resolution R-983-08, the Board awarded the contract for the Concourse "E" Fire Sprinkler and Fire Alarm Upgrades, MDAD Project No. F117A, to Aarya Construction and Design. Aarya achieved substantial completion and beneficial occupancy on July 29, 2011. During construction, Miami-Dade Fire Department field inspectors made continuous requests for additional work related to life and safety issues which were not part of the original scope of work. Due to the excessive amount of additional work requested, the original completion date was extended by 242 calendar days from November 29, 2010, to July 29, 2011, to enable Aarya to complete the work within the contract time. However, this situation created a financial burden on Aarya, so on August 22, 2013, the company submitted a delay claim for equitable adjustments for 762 calendar days at \$800.00 per day for a total of \$609,600.00.

Upon receiving the claim, MDAD retained the professional services of Alpha Corporation to assist in the review and evaluation of its merits. Alpha concluded that only 200 calendar days at \$800.00 per day for a total of \$160,000.00 would be considered compensable delays. MDAD agreed with Alpha's recommendation.

A meeting was held on April 9, 2013, with representatives from MDAD, HNTB and Aarya to discuss the claim and arrive at a resolution that would be acceptable to the company and in the best interest of the County. The \$160,000.00 represents a negotiated compromise settlement of all claims.

<b>PROJECT NAME:</b>	MIA Concourse "E" Fire Sprinkler and Fire Alarm Upgrades
<b>PROJECT NO.:</b>	MDAD F117A
<b>PROJECT DESCRIPTION:</b>	The project comprised the installation of all required life and safety equipment and components to upgrade the first, second and third levels of Concourse "E" to bring the systems into compliance with MIA's Life Safety Master Plan, South Florida Building Code, and National Fire Prevention Association guidelines. This project also included design work for converting existing ramp level storage areas into office space.
<b>COMPANY NAME/ADDRESS:</b>	Aarya Construction and Design, Inc. 7657 N.W. 50 <sup>th</sup> Street Miami, Florida 33166
<b>COMPANY PRINCIPAL(S):</b>	Sam Sami, President Eric Sami, Vice President Robert Sami, 2 <sup>nd</sup> Vice President
<b>GENDER/ETHNICITY AND OWNERSHIP BEAKDOWN:</b>	Sam Sami, Male, Iranian - 80% ownership Eric Sami, Male, Iranian - 10% ownership Robert Sami, Male, Iranian - 10% ownership
<b>HOW LONG IN BUSINESS:</b>	24 years
<b>PREVIOUS CONTRACTS WITH THE COUNTY WITHIN THE PAST FIVE (5) YEARS:</b>	According to the Company History Report provided by Small Business Development, the company has been awarded four (4) contracts totaling \$1,629,345.00.
<b>TERMS OF CONTRACT:</b>	The initial term of the contract was 650 calendar days. MDAD issued two (2) time extensions bringing the total contract time to 892 calendar days.
<b>ORIGINAL CONTRACT AMOUNT:</b>	\$4,465,125.00 including Inspector General Audit Account
<b>RECOMMENDED MODIFICATION:</b>	Approval of this Change Order as settlement of all claims
<b>CLASSIFICATION OF CHANGE ORDER:</b>	County and other agency requested change
<b>ADJUSTED CONTRACT AMOUNT:</b>	\$4,625,125.00

PERCENT INCREASE  
THIS CHANGE ORDER: 3.58%

CONTRACT MEASURES: The Review Committee established this project as a  
CSBE Level 2 – 25% Subcontractor Goal

CONTRACT MEASURES  
ACHIEVED AT AWARD: 10% Aarya Construction  
15% Solares Electric

CONTRACT MEASURES  
ACHIEVED TO DATE:  
(Rounded) 17% (\$ 692,204.22) Solares Electric  
11% (\$ 445,500.00) Aarya Construction  
28% (\$ 1,137,704.22)

IPSIG/INSPECTOR GENERAL: Provisions included

USING DEPARTMENT: Miami-Dade Aviation Department

  
\_\_\_\_\_  
Jack Osterholt, Deputy Mayor



# MEMORANDUM

(Revised)

**TO:** Honorable Chairwoman Rebeca Sosa  
and Members, Board of County Commissioners

**DATE:** October 7, 2014

**FROM:**   
R. A. Cuevas, Jr.  
County Attorney

**SUBJECT:** Agenda Item No. 8(A)(4)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_ ) to approve
- ☒ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 8(A)(4)  
10-7-14

RESOLUTION NO. \_\_\_\_\_

RESOLUTION AUTHORIZING EXECUTION OF CHANGE ORDER NO. 1 TO THE CONTRACT WITH AARYA CONSTRUCTION AND DESIGN, INC. FOR THE CONCOURSE "E" FIRE SPRINKLER AND FIRE ALARM UPGRADES, MDAD PROJECT NO. F117A, INCREASING THE CONTRACT BY AN AMOUNT NOT TO EXCEED \$160,000.00; AUTHORIZING THE MAYOR OR MAYOR'S DESIGNEE TO EXECUTE THE CHANGE ORDER FOR AND ON BEHALF OF MIAMI-DADE COUNTY AND TO EXERCISE THE PROVISIONS CONTAINED THEREIN

**WHEREAS**, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that this Board authorizes the Mayor or Mayor's designee to execute Change Order No. 1 to the contract with Aarya Construction and Design, Inc. for the Concourse "E" Fire Sprinkler and Fire Alarm Upgrades, MDAD Project No. F117A, increasing the contract by an amount not to exceed \$160,000.00, and authorizing the Mayor or Mayor's designee to exercise and enforce the provisions contained therein.

The foregoing resolution was offered by Commissioner \_\_\_\_\_,  
who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_  
and upon being put to a vote, the vote was as follows:

Rebeca Sosa, Chairwoman

Lynda Bell, Vice Chair

Bruno A. Barreiro

Jose "Pepe" Diaz

Sally A. Heyman

Jean Monestime

Sen. Javier D. Souto

Juan C. Zapata

Esteban L. Bovo, Jr.

Audrey M. Edmonson

Barbara J. Jordan

Dennis C. Moss

Xavier L. Suarez

The Chairperson thereupon declared the resolution duly passed and adopted this 7<sup>th</sup> day of October, 2014. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.



MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.

David M. Murray

**MIAMI - DADE COUNTY  
CHANGE ORDER TO ORIGINAL CONTRACT**

CHANGE ORDER NO. 1 (FINAL) PROJECT NO. F117A

DATE APRIL 23, 2014

PROJECT NAME: MIA CONCOURSE "E" FIRE SPRINKLER AND FIRE ALARM UPGRADES

TO CONTRACTOR: AARYA CONSTRUCTION AND DESIGN, INC.

YOU ARE HEREBY REQUESTED TO MAKE THE FOLLOWING CHANGES TO THE CURRENT CONTRACT, AND TO PERFORM THE WORK SUBJECT TO ALL CONTRACT STIPULATIONS AND COVENANTS.

<u>ITEM NO.</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
1	Settlement of all claims	\$160,000.00

RECEIVED  
JUN - 6 2014  
HNTB  
MIAMI, FLORIDA

**JUSTIFICATION:**

The project comprises the installation of all required Life and Safety equipment and components to upgrade the first, second and third levels of Concourse "E", in an effort to bring the present systems into compliance and in accordance with the Life Safety Master Plan (LSMP) for MIA and the South Florida Building Code and the National Fire Prevention Association guidelines. In addition, this project includes certain design work for converting existing ramp level storage areas into office space.

On October 7, 2008 the Board awarded this contract to the low bidder Aarya Construction and Design, Inc. (Contractor) in the amount of \$4,465,125.000 with a construction period of 650 calendar days and a completion date of November 29, 2010. The Contractor successfully completed the construction phase and was granted substantial completion and beneficial occupancy on July 29, 2011. During the construction phase the Miami-Dade Fire Department field inspectors made continuous requests for additional work related to life and safety issues, which were not part of the original scope of work for this project. Therefore, due to the excessive number of issues, the original completion date was extended by 242 calendar days to July 29, 2011 to enable the Contractor to complete the work within the contract time. However, this situation created a financial administrative burden on the Contractor.

In response to the County's request for certification of its claims under the False Claims Ordinance, on August 22, 2013 the Contractor submitted a claim delay for equitable adjustments caused to his company on this project, which included 762 compensable calendar days at the rate \$800.00 per day totaling \$609,600.00.

After several discussions the Contractor, the MDAD staff, and HNTB agreed to negotiate the matter to see if the outstanding claim delay issues could be resolved before resorting to litigation. On April 9, 2014, at the conclusion of a negotiation, the Contractor agreed to accept, and MDAD agreed to recommend to the Board of County Commissioners a payment settlement of \$160,000.00 in addition to the contract amount in the original contract.

This Change Order No. 1 (Final) adds \$160,000.00 to the original contract amount of \$4,465,125.00. Accordingly, the Contractor has agreed to accept a final adjusted contract amount of \$4,625,125.00 as full and complete payment of all of its claims on this project. HNTB, the Consultant, and the MDAD staff are recommending this settlement to the Board of County Commissioners as being in the best interest of the County. This settlement will avoid protracted and expensive litigation and provides reasonable compensation to the Contractor for its claims.

REASON FOR CHANGE: COUNTY REQUESTED CHANGE AND OTHER AGENCY REQUESTED CHANGE

**RELEASE OF CLAIM**

This Change Order does not authorize the Contractor to either perform the work described herein or entitle the Contractor to claim or receive payment of any of the funds referenced herein unless and until this Change Order is fully executed pursuant to provisions of the Contract, so authorizes and entitles the Contractor. such Change Order, when executed, contains appropriate waiver and release clauses pertinent to the work description and cost provisions included therein. In executing this Change Order; the Contractor waives all rights to make a claim as a result of this Change Order. The Contractor releases all claims and accepts this Change Order amounts and time for these items as full accord and satisfaction for all work to be performed in connection with the items in the Change Order.

# SUMMARY OF CONTRACT AMOUNT

ORIGINAL CONTRACT AMOUNT-----	\$4,465,125.00
COST OF CONSTRUCTION CHANGES PREVIOUSLY ORDERED-----	\$ 0.00
ADJUSTED CONTRACT AMOUNT PRIOR TO THIS CHANGE ORDER-----	\$4,465,125.00
COST OF CONSTRUCTION CHANGES THIS ORDER-----	\$ 160,000.00
ADJUSTED CONTRACT AMOUNT INCLUDING THIS CHANGE ORDER-----	\$4,625,125.00
PER CENT INCREASE, THIS CHANGE ORDER-----	3.58%
TOTAL PER CENT INCREASE TO DATE-----	3.58%
EXTENSION OF TIME ALLOWED BY THIS CHANGE 0 CALENDAR DAYS TO _____	

CERTIFYING STATEMENT: *I hereby certify that the supporting cost data included is, in my considered opinion, accurate; that the prices quoted are fair and reasonable and in proper ratio to the cost of the original work contracted for under benefit competitive bidding.*

  
SIGNATURE OF CONSULTING ARCHITECT OR ENGINEER

TO BE FILLED OUT BY DEPARTMENT INITIATING CHANGE ORDER

AVIATION EA501-11-AV3201-F117A James Lu  
DEPARTMENT FUNDS BUDGETED CODE CERTIFIED BY

ACCEPTED BY ERIC SAMI-VP ES APPROVED JG  
CONTRACTOR BUDGET DIRECTOR

Travelers Casualty and Surety Company  
of America

DADE COUNTY, Florida  
By its BOARD OF COUNTY COMMISSIONERS

SURETY  
Warren M. Alter, Attorney-in-Fact

RECOMMENDED [Signature] By \_\_\_\_\_ DATE \_\_\_\_\_  
PROJECT MANAGER DIVISION DIRECTOR County Mayor

APPROVED [Signature] 9/11/14 ATTEST: [Signature]  
HNTB (CONSULTING ENGINEERS) DEPT. BUSINESS DEVELOPMENT

APPROVED \_\_\_\_\_ By \_\_\_\_\_  
DEPARTMENTAL DIRECTOR Deputy Clerk

cc: A/E Consultant(s), Contractor, M-D Capital Improvements Coordinator, GSA Risk Management, Consulting Engineer (HNTB), Surety, MDAD CIP Contracts, MDAD Contracts Administration (Bldg 5A), MDAD Finance, MDAD Project Manager, MDAD Safety Insurance, MDAD Project Controls, MDAD Properties, Document Control



**TRAVELERS** **POWER OF ATTORNEY**

Farmington Casualty Company  
 Fidelity and Guaranty Insurance Company  
 Fidelity and Guaranty Insurance Underwriters, Inc.  
 St. Paul Fire and Marine Insurance Company  
 St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company  
 Travelers Casualty and Surety Company  
 Travelers Casualty and Surety Company of America  
 United States Fidelity and Guaranty Company

Attorney-In Fact No. 222004

Certificate No. 003428020

**KNOW ALL MEN BY THESE PRESENTS:** That St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company and St. Paul Mercury Insurance Company are corporations duly organized under the laws of the State of Minnesota, that Farmington Casualty Company, Travelers Casualty and Surety Company, and Travelers Casualty and Surety Company of America are corporations duly organized under the laws of the State of Connecticut, that United States Fidelity and Guaranty Company is a corporation duly organized under the laws of the State of Maryland, that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc., is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint

Warren M. Alter

of the City of Miami Lakes, State of Florida, their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

*Any and all consents required by the Department of Transportation, or the Orlando-Orange County Expressway Authority, State of Florida, incident to the release of retained percentages and/or final estimates.*

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 13th day of January, 2010.

Farmington Casualty Company  
 Fidelity and Guaranty Insurance Company  
 Fidelity and Guaranty Insurance Underwriters, Inc.  
 St. Paul Fire and Marine Insurance Company  
 St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company  
 Travelers Casualty and Surety Company  
 Travelers Casualty and Surety Company of America  
 United States Fidelity and Guaranty Company



State of Connecticut  
 City of Hartford ss.

By: 

George W. Thompson, Senior Vice President

On this the 13th day of January, 2010, before me personally appeared George W. Thompson, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal.  
 My Commission expires the 30th day of June, 2011.



  
 Marie C. Tetreault, Notary Public